

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED

FEB 26 2007

JOHN F. CORCORAN, CLERK
BY:  DEPUTY CLERK

JENIFER L. BUNCH,) CASE NO. 3:04CV00033
Plaintiff)
v.) REPORT AND RECOMMENDATION
LINDA S. McMAHON,¹) By: B. Waugh Crigler
Commissioner of Social Security,) U. S. Magistrate Judge
Defendant)

Upon petition of plaintiff's counsel for an award of attorney fees under 42 U.S.C. § 406(b) in the amount of \$9,862.85 with direction to remit to plaintiff the sum of \$2,500.00 heretofore awarded counsel under the Equal Access to Justice Act ("EAJA") and the Commissioner having filed a response essentially concurring in the petition, it is

R E C O M M E N D E D

that the District Judge enter an Order awarding counsel fees in the amount of \$9,862.85 to be paid from the withheld benefits with direction to plaintiff's counsel that, upon receipt of the fees so awarded, he forthwith is to REMIT to plaintiff the sum of \$2,500.00.

¹On January 20, 2007, Linda S. McMahon became the Acting Commissioner of Social Security. Pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, Linda S. McMahon should be substituted, therefore, for Commissioner Jo Anne B. Barnhart as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

The Clerk is directed to immediately transmit the record in this case to the presiding United States District Judge. Both sides are reminded that pursuant to Rule 72(b) they are entitled to note objections, if any they may have, to this Report and Recommendation within (10) days hereof. Any adjudication of fact or conclusion of law rendered herein by the undersigned not specifically objected to within the period prescribed by law may become conclusive upon the parties. Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C) as to factual recitations or findings as well as to the conclusions reached by the undersigned may be construed by any reviewing court as a waiver of such objection. The Clerk is directed to send a certified copy of this Report and Recommendation to all counsel of record.

ENTERED:


Judge

2/26/07
Date